

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Painters District Council No. 2, et al.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:08CV01501 ERW
)	
Paragon Painting of Missouri, LLC,)	
)	
Defendant.)	

AMENDED MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs' Motion to Compel Post-Judgment Discovery [Doc. #122], requesting that the Court compel Defendant Paragon Painting Company, of Missouri, LLC (hereinafter "Paragon of Missouri") to produce or otherwise respond to Plaintiffs' Requests for Production, served on the Defendant through its attorney on or about December 28, 2010. Plaintiffs additionally requested that this Court assess sanctions against Defendant for failing to cooperate in discovery and award Plaintiffs' attorneys' fees and costs incurred in compelling discovery, and as well as a Writ of Body Attachment and sanctions upon Richard Ladenberger to produce answers to Plaintiffs' discovery. [Docs. #133, 135]. Despite proper notice of Plaintiffs' motions and this Court's Order [Doc. #145] the Defendant continues to ignore the Court.

Courts have awarded sanctions for contempt in previous ERISA collection cases where the Defendant and/or its representative failed to participate in post-judgment discovery. *See, e.g., Carpenters' District Council of Greater St. Louis and Vicinity, et al. v. DLR Properties, Inc., et al.*, No. 4:07CV00061 CAS. Appropriate sanctions include monetary fines and imprisonment. *See, e.g., Fischer v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1340 (8th Cir. 1975) (fines).

In the present case, the Defendant and its principal, Richard Ladenberger, have shown its contempt for this Court and an award of sanctions against Mr. Ladenberger for the Plaintiffs, as well as a writ of body attachment, is appropriate. Not least among the evidence of Mr. Ladenberger's contempt is the fact he was found and served with the Court's prior Order at the same address the Court's prior mailings had been returned non-deliverable. *See*, Docs. #130, #145.

Accordingly,

IT IS HEREBY ORDERED that Defendant Paragon of Missouri and its Principal, Richard Ladenberger, are in **CONTEMPT**. As sanctioned, both Paragon of Missouri and Mr. Ladenberger will be jointly liable for a fine not to exceed \$200.00 per day for every day after this date by which Plaintiffs have not received answers to their discovery requests. Plaintiffs' attorney will contact the Court if and when the responses of Paragon of Missouri are received.

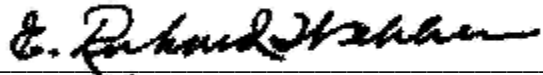
IT IS HEREBY FURTHER ORDERED that the Plaintiffs' request for an award of attorneys fees and costs for having to bring these motions is **GRANTED**. Defendant Paragon of Missouri and its Principal, Richard Ladenberger, are held jointly liable for Plaintiffs' attorneys fees and costs to Plaintiffs for having to bring its motions to compel and for contempt in the amounts of:

\$ 1,204.20 for attorneys fees; and

\$ 895.45 in costs, including services fees charged by the United States Marshal Service.

IT IS HEREBY FURTHER ORDERED that the Plaintiffs' request for a Writ of Body Attachment against Mr. Ladenberger is **GRANTED**. Mr. Ladenberger has previously been found at 3945 Highway UU, Union Missouri 63084. The Marshals are directed to bring Mr. Ladenberger before this Court without undue delay with costs assessed jointly against Mr. Ladenberger and Paragon of Missouri.

So Ordered this 1st day of September, 2011.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE